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This issue contains

DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

(T.D. 76-25)

Antidumping—Potassium chloride from France

The Secretary of the Treasury makes public a revocation of the finding of dumping with respect to potassium chloride, otherwise known as muriate of potash, from France; Section 153.43, Customs Regulations, amended

DEPARTMENT OF THE TREASURY,
Washington, D.C., January 15, 1976.

TITLE 19—CUSTOMS DUTIES

CHAPTER 1—UNITED STATES CUSTOMS SERVICE

PART 153 – ANTIDUMPING

On August 18, 1975, there was published in the FEDERAL REGISTER (40 FR 34620) a notice of "*Tentative Determination to Modify or Revoke Dumping Finding*" with respect to potassium chloride, otherwise known as muriate of potash, from France. A finding of dumping applicable to this merchandise was published as Treasury Decision 69-263 in the FEDERAL REGISTER of December 19, 1969 (34 FR 19905).

The above-mentioned notice set forth the reasons for the proposed revocation, and interested parties were offered an opportunity to make written submissions or request the opportunity to present oral views in connection therewith.

No requests to present oral views having been received and no written views having been received, I hereby determine that, for the reasons stated in the notice of "*Tentative Determination to Modify or Revoke Dumping Finding*", potassium chloride, otherwise known as muriate of potash, from France is no longer being, nor is it likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*), and I hereby revoke the finding of dumping published as T.D. 69-263, *supra*.

Accordingly, section 153.43 of the Customs Regulations (19 CFR 153.43) is hereby amended by deleting, from the column headed "*Merchandise*", the words "Potassium chloride, otherwise known as muriate of potash", from the column headed "Country", the word "France", and from the column headed "T.D.", reference to T.D. 69–263.

This determination is published pursuant to section 153.41(d), Customs Regulations (19 CFR 153.41(d)).

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

(APP–2–04)

JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[Published in the FEDERAL REGISTER January 20, 1976 (41 FR 2820)]

(T.D. 76–26)

Cotton textiles—Visa requirement

Restriction on entry of cotton textiles and cotton textile products manufactured or produced in Yugoslavia

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 16, 1976.

There is published below the directive of December 19, 1975, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning the visa requirements for cotton textiles and cotton textile products manufactured or produced in Yugoslavia. This directive cancels that Committee's directive of March 8, 1965, as amended (T.D's. 56386 and 75–96).

This directive was published in the FEDERAL REGISTER on December 29, 1975 (40 FR 59615), by the Committee.

(QUO–2–1)

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

December 19, 1975.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

This directive cancels and supersedes the directive of March 8, 1965, as amended, from the Chairman, Interagency Textile Administrative Committee, which directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products, produced or manufactured in Yugoslavia, for which the Government of the Socialist Federal Republic of Yugoslavia had not issued an appropriate export visa.

The actions taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of cotton textiles and cotton products from Yugoslavia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions of the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance U.S. Department of Commerce

(T.D. 76-27)

Cotton textiles—Restriction on entry

Restriction on entry of cotton textiles in certain categories manufactured or produced in the Polish People's Republic

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 16, 1976.

There is published below the directive of December 11, 1975, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning the restriction on entry into the United States of cotton textiles in certain categories manufactured or produced in the Polish People's Republic. This directive cancels that Committee's directive of February 20, 1975 (T.D. 75-61).

This directive was published in the FEDERAL REGISTER on December 18, 1975 (40 FR 58683), by the Committee.

(QUO-2-1)

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

December 11, 1975.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

This directive cancels and supersedes, effective on December 11, 1975, the directive of February 20, 1975 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, effective on March 1, 1975 and for the

twelve-month period extending through February 29, 1976, entry into the United States for consumption and withdrawal from warehouse for consumption of certain cotton textiles and cotton textile products, produced or manufactured in Poland, in excess of certain specified levels of restraint.

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton textiles and cotton textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance U.S. Department of Commerce

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(T.D. 76-28)

Cotton and manmade fiber textiles—Restriction on entry

Restriction on entry of cotton and manmade fiber textiles manufactured or produced in Malaysia

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 16, 1976.

There is published below the directive of December 22, 1975, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning the restriction on entry into the United States of cotton and manmade fiber textiles in certain categories manufactured or produced in Malaysia.

This directive was published in the FEDERAL REGISTER on December 31, 1975 (40 FR 60108), by the Committee.

(QUO–2–1)

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

December 22, 1975.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 8 and May 16, 1975, between the Governments of the United States and Malaysia, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1976 and extending through December 31, 1976, entry into the United States for consumption of textile products in Categories 9/10, 18/19, 22/23, 26, 39, 45/46/47, 49, 50/51, 60, 229 and 234/235 in excess of the following levels of restraint:

Category	*Twelve-Month Level of Restraint*
9/10	1,498,000 square yards
18/19	2,461,000 square yards
22/23	2,568,000 square yards
26	5,885,000 square yards
39	428,000 dozen pairs
45/46/47	4,494,000 square yards equivalent
49	26,338 dozen
50/51	66,340 dozen (of which not more than 41,463 dozen may be in either Category 50 or in Category 51)
60	42,807 dozen
229	26,319 dozen
234/235	2,782,000 square yards equivalent

In carrying out this directive, entries of cotton and man-made fibre textile products in the foregoing categories, produced or manufactured in Malaysia and exported to the United States during the twelve-month period beginning on January 1, 1975 and extending through December 31, 1975, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that period. In the event those levels have been exhausted by previous entires, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to future adjustment pursuant to the provisions of the bilateral agreement of January 8 and May 16, 1975 between the Governments of the United States and Malaysia which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Appropriate adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of cotton, wool, and man-made fiber textile products from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance U.S. Department of Commerce

(T.D. 76-29)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 6, 1976.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:	
December 29, 1975	$0.1980
December 30, 1975	.1980
December 31, 1975	.1980
January 1, 1976	Holiday
January 2, 1976	.1980
Iran rial:	
December 29, 1975	$0.0144
December 30, 1975	.0144
December 31, 1975	.0144
January 1, 1976	Holiday
January 2, 1976	.0144
Philippines peso:	
December 29, 1975	$0.1360
December 30, 1975	.1360
December 31, 1975	.1360
January 1, 1976	Holiday
January 2, 1976	.1360
Singapore dollar:	
December 29, 1975	$0.4019
December 30, 1975	.4013
December 31, 1975	.4020
January 1, 1976	Holiday
January 2, 1976	.4020

Thailand baht (tical):	
December 29, 1975	$0.0495
December 30, 1975	.0495
December 31, 1975	.0495
January 1, 1976	Holiday
January 2, 1976	.0495

(LIQ-3-O:D:T)

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

(T.D. 76-30)

Foreign currencies—Quarterly list of rates of exchange

Lists of buying rates in U.S. dollars certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for use during the quarter shown

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 19, 1976.

The appended table lists the buying rates in U.S. dollars for certain foreign currencies first certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), for a day in the quarter shown. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

(LIQ-3-O:D:T)

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

List of values of foreign currencies certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under provisions of section 522(c), Tariff Act of 1930, as amended

QUARTER BEGINNING JANUARY 1 TO MARCH 31, 1976

Country	Name of Currency	U.S. Dollars
Australia	Dollar	$1.2545
Austria	Schilling	.0540
Belgium	Franc	.025310
Canada	Dollar	.9837
Denmark	Krone	.1622
Finland	Markka	.2596
France	Franc	.2236
Germany	Deutsche Mark	.3819
India	Rupee	.1115
Ireland	Pound	2.0245
Italy	Lira	.001463
Japan	Yen	.003278
Malaysia	Dollar	.3860
Mexico	Peso	.0800
Netherlands	Guilder	.3724
New Zealand	Dollar	1.0385
Norway	Krone	.1795
Portugal	Escudo	.0365
South Africa	Rand	1.1480
Spain	Peseta	.016735
Sri Lanka	Rupee	.1297
Sweden	Krona	.2272
Switzerland	Franc	.3820
United Kingdom	Pound	2.0245

(T.D. 76-31)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 19, 1976.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:	
January 5, 1976	$0.1980
January 6, 1976	.1980
January 7, 1976	.1980
January 8, 1976	.1980
January 9, 1976	.1990
Iran rial:	
January 5, 1976	$0.0144
January 6, 1976	.0144
January 7, 1976	.0144
January 8, 1976	.0144
January 9, 1976	.0150
Philippines peso:	
January 5, 1976	$0.1360
January 6, 1976	.1360
January 7, 1976	.1360
January 8, 1976	.1360
January 9, 1976	.1375
Singapore dollar:	
January 5, 1976	$0.4010
January 6, 1976	.4028
January 7, 1976	.4031
January 8, 1976	.4039
January 9, 1976	.4033

Thailand baht (tical):

January 5, 1976	$0.0495
January 6, 1976	.0495
January 7, 1976	.0495
January 8, 1976	.0495
January 9, 1976	.0490

(LIQ-3-O:D:T)

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

Decisions of the United States Court of Customs and Patent Appeals

(C.A.D. 1164)

THE UNITED STATES *v.* CONSOLIDATED MERCHANDISING CO., ET AL.
No. 75–2, 3, 4, AND 5 (— F. 2d —)

United States Court of Customs and Patent Appeals, January 15, 1976

Appeal from United States Customs Court, R70/4168, Decision No. R74/245

[Reversed and remanded]

Rex E. Lee, Assistant Attorney General, *Andrew P. Vance*, Chief, Customs Section, *Velta A. Melnbrencis* for the United States.
Joel K. Simon (Serko & Simon) attorney of record, for appellees.

Before MARKEY, *Chief Judge*, RICH, BALDWIN, LANE and MILLER, *Associate Judges*.

PER CURIAM.

These consolidated appeals have been submitted on appellant's motion for summary reversal, filed June 9, 1975, appellant's memorandum in support thereof, appellees' memorandum in opposition thereto, and the briefs filed in response to this court's order of September 30, 1975.

Appellant's motion is granted and the Customs Court's Order of May 30, 1974, is reversed for the reasons discussed in *United States* v. *Torch Manufacturing Co.*, 62 CCPA ——, C.A.D. 1143, 509 F. 2d 1187 (1975).

As conceded by the government, the equities in the present cases lie with appellees. The failure of the government to timely file agreed-upon decisions and judgments, though it cannot be relied upon by appellees as relieving them of their burden to comply with the statute, clearly raises a question of unjust enrichment of the government.

Appellees' remedy, however, does not lie with the courts, who are powerless to disregard the statute. That remedy, if remedy there is to be, must be sought by way of special legislation in the Congress. *Quigley & Manard, Inc.* v. *United States*, 61 CCPA 65, C.A.D. 1121, 496, F. 2d 1214 (1974); *United States* v. *Torch Manufacturing Co.*, supra at 1192.

Accordingly, the May 30, 1974 order of the Customs Court is reversed and the above-entitled cases are remanded with instructions to reinstate the January 9, 1974 judgment orders of that court.

212-861—76——3

Decisions of the United States Customs Court

Customs Decisions

(C.D. 4626)

CANADIAN VINYL INDUSTRIES, INC. *v.* UNITED STATES

Imitation patent leather

CLASSIFICATION—POLYURETHANE SHEET WITH NYLON BACKING

An importation consisting of a polyurethane skin with a nylon fabric backing is held to be a flexible sheet almost wholly of plastic, made in imitation of patent leather, classifiable under item 771.40 of the TSUS. The value of the polyurethane material being in

excess of the nylon fabric, the importation was not made of textile materials as the term "of" is defined in general headnote 9(f)(i). Consequently the classification as other fabrics of textile materials of man-made fibers, coated or laminated with plastic, under item 355.82 was incorrect.

"ALMOST WHOLLY OF"—GENERAL HEADNOTE 9(f)(iii)

Since the importation's essential character is the distinct visual and tactile quality which is imparted to it by the polyurethane material, the importation is "almost wholly of" plastic as that quoted phrase is defined in general headnote 9(f)(iii). The nylon backing does not impart the essential character to the article.

Court No. 73–5–01298

Port of Champlain-Rouses Point

[Judgment for plaintiff.]

(Decided January 8, 1976)

Barnes, Richardson & Colburn (*James S. O'Kelly* and *Michael Stramiello, Jr.*, of counsel) for the plaintiff.

Rex E. Lee, Assistant Attorney General (*Steven P. Florsheim* and *Carol A. Calhoun*, trial attorneys), for the defendant.

WATSON, Judge: This case involves an importation composed of a glossy polyurethane "skin" on one side and a nylon fabric on the reverse. The merchandise was classified as other fabrics of textile materials of man-made fibers, coated or laminated with plastic.[1] Plaintiff's principal claim [2] is for classification as flexible sheets almost wholly of plastic, made in imitation of patent leather.[3]

Plaintiff disproved the correctness of the classification by showing that the importation was not wholly or in chief value of the nylon textile material which, under general headnote 9(f)(i),[4] would be a

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[1] Item 355.82 of the TSUS, as modified by T.D. 68–9, with duty assessed at the rate of 12.5 cents per pound and 15 per centum ad valorem.

[2] Plaintiff's additional claims for classification under items 771.42, 774.60 and 355.85, as modified, are not reached in light of the success of plaintiff's principal claim.

[3] Item 771.40 of the TSUS, as modified, with duty to be assessed at the rate of 4 per centum ad valorem.

[4] The full relevant portion of general headnote 9 reads as follows:

9. Definitions. For the purposes of the schedules, unless the context otherwise requires—

* * * * * * * * *

(f) the terms "of", "wholly of", "almost wholly of", "in part of" and "containing", when used between the description of an article and a material (e.g., "furniture of wood", "woven fabrics, wholly of cotton", etc.), have the following meanings:

(i) "of" means that the article is wholly or in chief value of the named material;

(ii) "wholly of" means that the article is, except for negligible or insignificant quantities or some other material or materials, composed completely of the named material;

(iii) "almost wholly of" means that the essential character of the article is imparted by the named material, notwithstanding the fact that significant quantities of some other material or materials may be present; * * *

necessary prelude to classifying this importation as "of" textile material. In fact, plaintiff proved that at the time the components of this material were ready to be joined together (which is the appropriate time to determine their relative value) the cost of the nylon portion was approximately 51 cents per yard and the cost of the polyurethane portion was approximately $1.13 per yard.

This leads to consideration of whether the importation is a patent leather imitation almost wholly of plastic. The phrase "almost wholly of" is defined in general headnote 9(f)(iii) as meaning that the essential character of the article is imparted by the named material. From an examination of the exhibit representative of the importation as well as the testimony of plaintiff's witnesses, I conclude that the essential character of this material is the distinctive visual and tactile quality of the polyurethane "skin." These are the qualities which give this article its own special nature. Whatever the utility or importance of the nylon backing, the nylon portion does not supply the essential character.

Discernment of the essential character of articles is not likely to develop into an exact science but, insofar as some consistency and predictability is possible, it is likely to be found in concentrating on whether the material in question supplies the distinctive feature of the article and not in examining all the characteristics of the article and, if some other material contributes important characteristics, declining to give one material the primacy which its role deserves. General headnote 9(f)(iii) [5] acknowledges the possibility that significant quantities of some other materials may be present and implicity recognizes that those other materials will impart something to the character of the article.

Therefore, the existence of other materials which impart something to the article ought not to preclude an attempt to isolate the most outstanding and distinctive characteristic of the article and to detect the component material responsible for that "essential characteristic." The correct approach is exemplified in *United China & Glass Co.* v. *United States*, 61 Cust. Ct. 386, C.D. 3637, 293 F. Supp. 734 (1968). In that case an article composed of artificial flowers inside a glass ball was found to be almost wholly of glass.[6] In terms of the analysis I am making here, the essential character of the article was manifest in

[5] Ibid.

[6] The consequence of this finding was that headnote 1(i) of schedule 7, part 7, subpart B acted to exclude the article from the "artificial flower" provisions of items 748.20 and 748.21.

the enclosing effect of the glass ball despite the obvious importance of the artificial flowers within. Similarly, in *Larry B. Watson Co., a/c Decoration Products Co.* v. *United States*, 64 Cust. Ct. 353, C.D. 4001 (1970) the physical adaptability to use of a polyvinyl chloride film was held to be the essential character of the importation although an important visual characteristic was imparted by a metallic or lacquered surface treatment.

In *Marshall Co., Inc., Hoyt, Shepston & Sciaroni* v. *United States*, 67 Cust. Ct. 316, C.D. 4291, 334 F. Supp. 643 (1971) which involved a rayon fabric coated with rubber, I read the opinion as concluding that the article's essential character consisted of attributes of dimensional stability and a burst strength of predetermined value—both imparted by the fabric component. Classification under item 771.42 as other sheets almost wholly of rubber was therefore ruled out.

I note in passing, although it is not crucial to my analysis, that the polyurethane skin of this importation, in addition to supplying the essential visul and tactile characteristics, also contributes attributes of strength and flexibility in conjunction with the nylon backing. It is the poluyrethane which is the main subject of the flexing and cracking tests to which the importation is subjected to determine its suitability for use in shoe manufacture. In this respect it is more like the fabric than the rubber coating in the *Marshall* case and is comparable to the polyvinyl chloride film in the *Watson* case. In its contribution to the distinctive character of the importation, it is most like the glass ball in the *United China* case. In short, not only does the polyurethane skin supply the essential character of the importation, which would suffice to make the importation almost wholly of plastic, it is the dominant material in all respects.

As a final matter, I am convinced the importation is made in imitation of patent leather within the meaning of the TSUS. I reach this conclusion both from the testimony of the witnesses who were well qualified to speak authoritatively on the subject and from examination of the smooth and glossy state of the importation's surface. Defendant argues for a degree of hardness and absolute smoothness which I do not find to be a requirement for patent leather.

For the above reasons I conclude that the importation is properly classifiable as flexible sheet almost wholly of plastic, made in imitation of patent leather, under item 771.40 of the TSUS and is dutiable at the rate of 4 per centum ad valorem.

Judgment will enter accordingly.

(C.D. 4627)

VANCOR STEAMSHIP CORP. *v.* UNITED STATES

VESSEL—FLOATING STRUCTURE

The forebody of a French vessel which was towed across the Atlantic not as a means of transportation on water, but for the single purpose of being used as the forebody for the jumboization (i.e., enlargement of the cargo carrying capacity) of an American tanker held properly classified by the government as a floating structure and not as a vessel. *United States* v. *Bethlehem Steel Co. et al.*, 53 CCPA 142, C.A.D. 891 (1966) followed.

Court No. 69/6257

Port of Mobile

[Judgment for defendant.]

(Decided January 9, 1976)

Hill, Betts & Nash (*Robert W. Mullen* of counsel) for the plaintiff.

Rex E. Lee, Assistant Attorney General (*John N. Politis*, trial attorney), for the defendant.

MALETZ, Judge: This action involves the dutiable status of the forebody of a French tank vessel known as the Isanda. The forebody was towed across the Atlantic Ocean from Le Havre, France to Mobile, Alabama where it was entered in April 1968.

Thereafter, it was classified by Customs as a floating structure under item 696.60 of the tariff schedules, as modified by T.D. 68–9 and assessed duty at the rate of 17 percent ad valorem. Plaintiff claims that the forebody was a vessel within the meaning of section 401(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1401(a)) and hence entitled to duty-free entry by virtue of general headnote 5(e) of the tariff schedules.

The pertinent statutory provisions provide as follows:

Classified under [Schedule 6, part 6, subpart D]:

Subpart D headnote:

1. This subpart does not cover—

* * * * * * *

(ii) vessels which are not yachts or pleasure boats (see general headnote 5(e)).

* * * * * * *

696.60	Buoys, beacons, landing stages, cofferdams, rafts, and other floating structures (except vessels).....	17% ad val.

Claimed under [General Headnotes and Rules of Interpretation]:

> 5. Intangibles. For the purposes of headnote 1—
>
> * * * * * * *
>
> (e) vessels which are not "yachts or pleasure boats" within the purview of subpart D, part 6, of schedule 6,
>
> are not articles subject to the provisions of these schedules.

Section 401(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1401(a)):

> (a) The word "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft.

The facts are as follows: The French vessel Isanda was a 635 foot self-propelled oil tanker with a capacity of about 32,000 tons deadweight that was built in 1955 and was used during the next decade for the carriage of oil and other petroleum products. In 1967, the owners of the Isanda decided to "jumboize" the Isanda, i.e., increase the freight carrying part of the vessel, which was done by removing the entire stern section, including the engines, and joining to that section the larger forebody of another tanker thereby enlarging the Isanda's capacity from 32,000 tons deadweight to 60,000 tons.[1]

After removal of the stern section of the Isanda, there was left a forebody about 497 feet in length and 84 feet in breadth which was purchased by plaintiff, Vancor, in August 1967 for the sum of $400,000. A few days later, plaintiff purchased for $600,000 a T–2 American flag tanker, the Westfield, which was 525 feet in length and had a

[1] In a self-propelled vessel the power plant package at the stern is not only the most significant portion of the total cost of the craft, it constitutes the heart of the vessel. Thus, when one wishes to jumboize a vessel, the identity of the jumboized vessel is represented by that portion of the original vessel containing the power package. The reasons for jumboization of tankers, particularly in the post World War II period, were explained by a witness as follows (R. 258): "The T-2 tanker, a wartime construction, has a relatively high powered character in comparison to the total size of the vessel. In the postwar period, these T-2 tankers which were, at the time of their original conception considered to be large, fast tankers, really turned out to be small fast tankers and, consequently, not nearly so economically competitive as the larger vessels that were being built in that postwar period. It was conceded, therefore, that if one were to take the existing power package of that vessle * * * [attach] this then to a new fabrication to make a larger carrying capacity, one would lose very little in the way of vessel speed, one would increase handsomely in productivity of the vessel at relatively small cost. And, consequently, this led to the jumboizing practice that saw so many of these T–2's enlarged by a factor of two and sometimes more." See also *Todd Shipyards Corporation* v. *United States*, 63 Cust. Ct. 165, 168, n. 4, C.D. 3891 (1969).

capacity of 16,500 tons deadweight. Plaintiff's intent in purchasing the Westfield and the former forebody of the Isanda was to jumboize the Westfield by joining the forebody to the stern section of the Westfield thereby enlarging the Westfield's length from 525 feet to 825 feet and its capacity from 16,500 tons deadweight to 34,000 tons.

To carry out this project, the former forebody of the Isanda was towed by tug across the Atlantic from Le Havre to a shipyard in Mobile where the Westfield was berthed. At that yard the stern portion of the Westfield was removed and joined to the former forebody of the Isanda. This joinder, as explained by the naval architect who supervised the project, was accomplished in the following manner (R. 128–9): "[w]hen the Isanda was towed to the Gulf, it was cut midway in the last number 10 tank, and we fabricated a new section from that point to the beginning of the aft-most bulkhead, or the aft-most bulkhead, had it been there. We constructed a half tank, and designed it in such a manner that we could make a transition between the wide beam of the Isanda and the narrow beam or breadth of the American ship, the T–2." More particularly, a transition piece of about 30 feet from fore to aft was constructed to connect the forebody of the Isanda with the stern section of the Westfield. A further part of the work consisted of removing the extreme lower portion of the bow of the Westfield—which was cylindrical in shape and weighed about 10 tons—and fastening it to the lower portion of the bow of the former forebody of the Isanda. This modification, while not necessary from a nautical standpoint, was effected to improve the speed performance of the jumboized tanker, i.e., the Westfield.[2] Eventually that tanker was called the Vantage Horizon and it continues to sail as a vessel to this day, carrying cargoes under the American flag.

When the former forebody of the Isanda was towed across the Atlantic to Mobile, it carried neither cargo nor crew and had the following characteristics among others: The centre bridge had been removed which deprived the forebody of any controlling or steering device. Its hull was in satisfactory condition. It had navigating lights but no power facilities making it necessary to power the lights by batteries or kerosene. It lacked any type of safety equipment and its aft bulkhead

[2] As testified by the naval architect who supervised the project (R. 175, 177): "The work we did involved the jumboizing of the Westfield. In other words, the Westfield, as it was originally constructed, had a capacity of approximately 16,000 tons of cargo. When we removed the original forward portion of the Westfield and we installed the Isanda portion, the capacity of the vessel was now in the neighborhood of 34,000 * * * [dead] weight tons. That is why we refer to the process as 'jumboizing.' We made the Westfield larger. * * * [T]he forebody as we have been referring to it today, is called the Isanda and no where * * * [did] we ever make that portion of the vessel larger. The vessel that we increase[d] the capacity of and made larger was the Westfield. We jumboized the Westfield and made the Westfield larger."

was open to the sea. Also it lacked many items such as mooring winches and lines, valves, piping and deck fittings—all of which had been removed prior to the crossing. The interior structure and the web frames of the wing tanks were in good condition and two pumps remained in the forward pump room. However, reach rods and pedestals had been removed from that room so that the pumps could not be operated. Further, the forebody had two masts which were in fair condition, a complete set of heating coils, a clean dry cargo hold, steel work in good condition, and tanks which were very clean and gas free. Finally, the record shows that the forebody as it crossed the ocean on its voyage to Mobile was capable of carrying only a limited amount of cargo because of its generally poor condition.

During the crossing, the forebody was under a marine hull and machinery insurance cover and prior thereto underwent a Lloyd's survey by a surveyor of Bureau Veritas, a world-wide marine insurance classification society. The marine insurance premium was $32,500.

When the forebody arrived at the entrance of the harbor at Mobile, it was joined by a riding crew of five seamen and charged pilotage. The riding crew served aboard from 8:00 A.M. to 6:00 P.M. on November 17, 1967 and performed the duties of opening tank tops and handling the mooring of the forebody. At Mobile plaintiff Vancor was represented by a ship's agent, Strachan Shipping Co. The transatlantic tow cost plaintiff $65,000.

Against this factual background it must be concluded that the forebody was not a "vessel" but rather a floating structure, as classified by Customs, and hence that plaintiff's claim must be dismissed. Dispositive in the court's view is *United States* v. *Bethlehem Steel Co. et al.*, 53 CCPA 142, C.A.D. 891 (1966),[3] *cert. den.* 386 U.S. 912 (1967), *reh. den.* 386 U.S. 987 (1967) which held that certain midbodies that were towed across the Atlantic to the United States were not vessels and hence not entitled to duty-free status.[4] The evidence with respect to the midbodies was set forth by this court in the following summary (54 Cust. Ct. at 3–4) which was adopted by the appellate court (53 CCPA at 143):

> It appears from the evidence that the midbodies in controversy were constructed in European shipyards in accordance with conventional designs, plans, and specifications prepared by naval architects which conformed to the accepted standards in

[3] Petition for rehearing denied October 6, 1966.

[4] In the *Bethlehem* case the appellate court reversed the decision of this court holding that the midbodies were "vessels." *Bethlehem Steel Company et al.* v. *United States*, 54 Cust. Ct. 1, C.D. 2500, 238 F. Supp. 483 (1964). The decision of the appellate court in *Bethlehem* was followed by this court in *Todd Shipyards Corporation* v. *United States*, *supra*, 63 Cust. Ct. 165.

the construction of watercraft generally and approved by governing bodies, such as the American Bureau of Shipping, the United States Coast Guard, and the United States Public Health Service.

The midbodies were over 500 feet in length and had a cargo capacity of between 12,000 and 14,000 tons. In order to facilitate their transatlantic voyage, they were equipped with a temporary bow and additional stiffeners were used to strengthen the stern. Furthermore, each craft had sleeping accommodations for a crew of eight men, each of whom had signed ships' papers for the the crossing. They were equipped with light, heat, power, food, radio facilities, and navigational lights and signals in order to comply with navigational rules of the road and to indicate that the craft were under tow, as required by law for vessels only. * * *

Upon their arrival in this country, the midbodies were suitable for use as vessels of the barge type for commercial use in the transportation of cargo. They were designed for ultimate use as cargo sections of self-propelled ore carriers on the Great Lakes.

The evidence also discloses that each craft carried marine insurance * * * which was secured for protection against damage or loss of the craft in transit and which also served as coverage for the crew of eight who manned the craft while crossing the ocean. In addition to the foregoing, the midbodies were equipped with liferafts, life preservers, anchor and chain, and a generator for light, heat, and messing.

In this setting, the appellate court stated (53 CCPA at 152):

* * * There is no evidence Congress intended, as appellant states, that "any floating object which has the capacity to carry merchandise must be accorded duty-free status." Second, that the midbodies are "staunch seagoing" structures does not establish that they are vessels. Rather, in all the cases cited, each of the "inferior craft" was capable of and designed to perform a sufficiently related function to "means of transportation" on water to qualify as a vessel. The liberality expressed in the law in interpreting the term "vessel" goes to the very fact that size and structure per se does not determine that a structure is a vessel.

The midbodies, at the time of importation, were not "barges" or equivalent to a barge as appellees would have us hold. They were precisely what the evidence shows, a midsection for a vessel, They were complete in nearly every respect, as pointed out supra. In order to tow them across the ocean they were fitted with temporary, sturdy fore and aft sections.

All of the evidence of record establishes that the midsections, at the time of importation, were not watercraft designed or intended as a means of transportation on water. Their sole resemblance to craft that have been held to be vessels (barges) and their qualification under a literal reading of the definitions advanced

> as vessels stems from the fact that temporary fore and aft sections were constructed for the tow across the ocean *to make possible their designed and intended use as midsections and not means of transportation*. We find our conclusion that the midbodies are not vessels is consistent with all of the cases discussed below and relied upon by appellees. [Emphasis in original.]

Continuing, the court observed that the midbodies made the trip across the ocean "for the exclusive purpose, and were designed and intended for no other reason than to serve as midsections of ore carriers. Thus considered, the midbodies were not vessels at the time of importation, * * *." *Id.* at 153. Similarly, the present record establishes that the forebody made the trip across the ocean for the exclusive purpose, and was intended for no other reason than to be used in the rebuilding of an American flag vessel, i.e., the Westfield. What is more, if a comparison were to be made between the forebody in the present case and the midbodies in *Bethlehem*, the midbodies would be more like vessels than the forebody, considering that the midbodies carried a crew, had power facilities on board and were capable of carrying cargo, whereas the forebody had no crew, no power on board, and was capable of carrying only a limited amount of cargo because of its generally poor condition.

Plaintiff argues, however, that the present case is distinguishable from *Bethlehem* on the basis that the forebody "was born a vessel whereas the Bethlehem midbodies never achieved that status." (Br. p. 15.) However, this argument overlooks the fact that it was the condition of the forebody when it was imported that determines its status for tariff purposes and not its status at a prior stage before it was severed from the Isanda. And in its condition as imported the forebody—like the *Bethlehem* midbodies—had but one purpose—to be used as material for the jumboization of an American vessel and not as a means of transportation on water. To paraphrase what the appellate court said in *Bethlehem* (53 CCPA at 152), all the evidence of record establishes that the forebody at the time of importation was not watercraft intended as a means of transportation on water.

On another aspect, plaintiff points out that the forebodies of two French sister ships of the Isanda, the Isidora and Isara—which were intended to be used in the same way as the forebody of the Isanda, namely to jumboize American flag tankers—were entered at the port of Beaumont on March 11, 1966 and July 31, 1966, respectively, and were classified by Customs as "vessels" and thus exempt from duty. Plaintiff argues that since Customs at Beaumont treated these two forebodies as vessels and collected no duty, the action of Customs at Mobile in treating the virtually identical forebody of the Isanda

involved here as a floating structure and imposing a duty of 17 percent ad valorem violated section 8 of the Constitution which specifies that "all Duties, Imposts and Excises shall be uniform throughout the United States."

With respect to this argument, it is to be noted that at the time the forebodies of the Isidora and Isara were entered at Beaumont, i.e., on March 11, 1966 and July 31, 1966, and exempted from duty by Customs on the basis that they were "vessels," an appeal by the government was pending from the decision of this court in *Bethlehem Steel Company et al.* v. *United States*, *supra*, 54 Cust. Ct. 1, holding that the midbodies in question were "vessels" and thus duty-free. The facts, as set out in defendant's exhibit B, show that after the decision of the appellate court in *Bethlehem* in August 1966 reversing the trial court decision and holding the midbodies to be dutiable, the Bureau of Customs reconsidered its previous decision as to the tariff status of the forebodies of the Isidora and Isara and initiated various steps—which are detailed in the above exhibit—to collect duties on these two forebodies. However, as indicated in defendant's exhibit B, efforts by Customs to collect these duties have thus far been frustrated due to an apparent disagreement as to the ownership of the forebodies at the time they were imported into the United States.

In the present case, the basis for assessing duties on the forebody of the Isanda was that it was in conformance with the law as set forth by the appellate court in the *Bethlehem* case. Indeed, had Customs not assessed duties on the present forebody, such an omission would have been contrary to the law. From the standpoint of hindsight it might be argued that Customs' failure initially to assess duties on the forebodies of the Isidora and Isara was erroneous, but this cannot serve to relieve this plaintiff of its obligation to pay the duties legally due. Certainly, errors of judgment on the part of government officials or the clever use of corporate law by the owners of those two forebodies cannot now be used to defeat the legal requirement that the imported merchandise here involved be dutiable. Even an improper failure to collect duties on one occasion is scarcely a legal basis for refusing to collect duties clearly due on another occasion absent the applicability of the established and uniform practice doctrine, which has not been urged here and is clearly not applicable.[5]

[5] The established and uniform practice doctrine is covered by 19 U.S.C. 1315(d) which provides as follows:

(d) No administrative ruling resulting in the imposition of a higher rate of duty or charge than the Secretary of the Treasury shall find to have been applicable to imported merchandise under an established and uniform practice shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption prior to the expiration of thirty days after the date of publication in the weekly Treasury Decisions of notice of such ruling; but this provision shall not apply with respect to the imposition of antidumping duties.

Finally, plaintiff argues that Customs' failure to treat the forebody of the Isanda as a vessel is inconsistent with its treatment as a vessel of the forebody of the Stolt Dagali. The facts concerning this matter are as follows: In November 1964 the Stolt Dagali, a Norwegian vessel, collided in the Atlantic with another vessel causing the severance and sinking of the Stolt Dagali's stern section. The forebody of the Stolt Dagali remained intact and was towed into the port of New York where its cargo was unladen, after which it was towed back across the Atlantic to Europe. Customs treated the forebody as a vessel and thus allowed entry duty-free. Plaintiff claims that since no duty was assessed on that forebody no duty should have been assessed on the forebody of the Isanda. But there is a major difference between the status of the forebody here in issue and the forebody of the Stolt Dagali. For the forebody at bar was imported into the United States for the sole purpose of being used as material for the jumboization of an American vessel, whereas the forebody of the Stolt Dagali was brought into the United States solely as a means of transportation, i.e., to discharge its cargo and return to its country of origin for rework into another vessel.

For the reasons stated, it is concluded that the forebody at bar was properly classified by Customs as a floating structure under item 696.60. Therefore plaintiff's claim is overruled and judgment will be entered accordingly.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *January 12, 1976.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

VERNON D. ACREE,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P76/1	Landis, J. January 6, 1976	Kaysons Intl., Ltd.	67/63009	Item 651.75 Various ad valorem equivalent rates as set forth in schedule A, attached to decision and	Item 651.75 Highest specific or compound rate for any article in set and from which ad valorem equiva-	Import Associates of America et al. v. U.S. (C.A.D. 961)	Los Angeles Flatware sets

				judgment in column headed Assessed Ad Valorem Equivalent Rate	lent rate was computed; which compound rate should have been assessed once against each article or utensil in set; such rate is set forth in said schedule A in column headed "Claimed Rate"		
P76/2	Watson, J. January 6, 1976	N. H. M. Corporation et al.	72-7-01509, etc.	Item 748.20 23.5% or 22%	Item 774.60 11.5% or 10%	Armbee Corporation et al. v. U.S. (C.D. 3278) Zunold Trading Corporation et al. v. U.S. (C.D. 3279) First American Artificial Flowers, Inc. v. U.S. (C.D. 4185) Joseph Markovits, Inc. v. U.S. (C.D. 4396)	Los Angeles Merchandise in c.v. of plastic
P76/3	Watson, J. January 6, 1976	Queen City Wreath, Inc.	73-8-02209	Item 748.20 21%	Item 774.60 8.5%	Joseph Markovits, Inc. v. U.S. (C.D. 4396)	Cincinnati (Cleveland) Artificial ferns, fruit, leaves, etc.
P76/4	Watson, J. January 6, 1976	Teters Floral Products Co., Inc.	72-1-00115	Item 748.20 25% or 23.5%	Item 774.60 13.5% or 11.5%	First American Artificial Flowers, Inc. v. U.S. (C.D. 4185) Joseph Markovits, Inc. v. U.S. (C.D. 4396)	Seattle Articles of plastic

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P76/5	Watson, J. January 6, 1976	Volvo of America Corp.	73-7-01715	Item 409.00 4.9¢ per lb. + 31%; 4¢ per lb. + 27%	Item 405.25 1.9¢ per lb. + 12.5%; 1.6¢ per lb. + 10.5%	U.S. v. Volkswagen of America, Inc. (C.A.D. 1115)	New York Benzenoid alkyd resin paints
P76/6	Watson, J. January 7, 1976	Volkswagen of America, Inc.	71-7-00526	Item 409.00 7¢ per lb. + 45%; 6.3¢ per lb. + 40%; 5.5¢ per lb. + 36%; 4.9¢ per lb. + 31%; 4¢ per lb. + 27%	Item 405.25 2.8¢ per lb. + 18%; 2.5¢ per lb. + 16%; 2.2¢ per lb. + 14%; 1.9¢ per lb. + 12.5%; 1.6¢ per lb. + 10.5%	U.S. v. Volkswagen of America, Inc. (C.A.D. 1115)	New York; Chicago; Honolulu; Houston; San Francisco; New Orleans; Los Angeles; Toledo (Cleveland); Philadelphia; Boston; Baltimore; Jacksonville, (Tampa); Portland, Oreg. Benzenoid alkyd resin paints

P76/7	Richardson, J. January 8, 1976	United China & Glass Co.	68/6115, etc.	Item 651.75 Various ad valorem equivalents set out in schedule, attached to decision and judgment, in column headed Assessed Rate	Item 651.75 Appropriate compound rate set forth in said schedule	Import Associates of America et al. v. U.S. (C.A.D. 961)	New Orleans Flatware sets, bar sets, etc.
P76/8	Richardson, J. January 8, 1976	Universal Transcontinental Corp.	69/36215	Item 737.15 35%	Item 800.00 Free of duty	Agreed statement of facts	New York American goods returned (one Planetary Drive Display (cut away))
P76/9	Maletz, J. January 8, 1976	Barnebey Cheney Co.	64/2871–S	Par. 69 19%	Par. 1555 4%	Summary judgment Barnebey-Cheney Co. v. U.S. (C.A.D. 1110)	Baltimore "Scrap carbon"
P76/10	Maletz, J. January 8, 1976	Barnebey Cheney Co.	67/87813–S	Item 493.26 15%	Item 703.00 4%	Summary judgement Barnebey-Cheney Co. v. U.S. (C.A.D. 1110)	Baltimore "Scrap charcoal"

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R76/1	Watson, J. January 6, 1976	Mitsubishi International Corp.	R61/5588	American selling price	$1.52 less 6% per pair, net packed	Agreed statement of facts	New Orleans Footwear (women's, No. 600S)
R76/2	Watson, J. January 6, 1976	Mitsubishi International Corp.	R62/13059	American selling price	$1.73 less 6% per pair, net packed	Agreed statement of facts	Galveston Footwear (women's, Nos. 118R and 140A)
R76/3	Watson, J. January 8, 1976	Mitsubishi International Corp.	R61/3525, etc.	American selling price	As shown in schedule B, attached to decision and judgment, for respective pattern numbers and sizes listed therein, on dates of exportation as shown, per pair, net packed	Agreed statement of facts	New Orleans Footwear

R76/4	Watson, J. January 8, 1976	Mitsubishi International Corp.	R61/9326, etc.	American selling price	As shown in schedule B, attached to decision and judgment, for respective pattern numbers and sizes listed therein, on dates of exportation as shown, per pair, net packed	Agreed statement of facts	Los Angeles Footwear
R76/5	Watson, J. January 8, 1976	Mitsubishi International Corp.	R62/1439, etc.	American selling price	As shown in schedule B, attached to decision and judgment, for respective pattern numbers and sizes listed therein, on dates of exportation as shown, per pair, net packed	Agreed statement of facts	Los Angeles Footwear
R76/6	Watson, J. January 8, 1976	Mitsubishi International Corp.	R62/5101, etc.	American selling price	As shown in schedule B, attached to decision and judgment, for respective pattern numbers and sizes listed therein, on dates of exportation as shown, per pair, net packed	Agreed statement of facts	Los Angeles Footwear

Judgment of the United States Customs Court in Appealed Case

JANUARY 8, 1976

APPEAL 75–11.—United States *v.* C. J. Tower & Sons of Buffalo, Inc., a/c Metco, Inc.—COMPOSITE POWDER OF NICKEL AND ALUMINUM—ARTICLES OF NICKEL, NOT COATED OR PLATED WITH PRECIOUS METAL—NICKEL POWDER—TSUS.—C.D. 4559 affirmed November 13, 1975. C.A.D. 1163.

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